



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON DC 20548

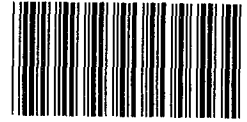
*WAVES 111227*  
*bill comments*  
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OCT 4 1978

B-170612  
B-139310

A.

The Honorable Abraham Ribicoff  
Chairman, Senate Committee on  
Government Affairs  
United States Senate

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Dear Chairman Ribicoff:

This letter responds to your request of August 29, 1978, for comments on S.3262, the "Regulatory Cost Reduction Act of 1978." This bill proposes to establish a procedure to reduce the costs of compliance with rules and regulations of Federal executive departments and independent agencies. The goal is to achieve a 25 percent cost reduction in five years. → The bill would require from each executive department and independent agency annual reports which would include the following information: an estimate of the cost of compliance with each rule and regulation, present and proposed; a description of actions taken in the previous year and planned for the next year to reduce these costs; and an explanation of any failures to reduce these costs by 5 percent per year.

We support the objective of the bill to reduce the costs of compliance with Federal rules and regulations. Recommendations included in Section 5, such as the simplification of Government forms, the replacement of design standards with performance standards, and the use of market incentives in lieu of rules or regulations, are likely to be useful in accomplishing that end.

We have several concerns, however, about the bill. <sup>AC</sup> The prescribed method of reducing regulatory costs may be inefficient both because the bill does not take into account regulatory benefits and because the implementation costs of the bill will likely be high. The bill imposes evaluation requirements that may exceed the current state of the art. It is concerned only with compliance costs and does not mention other important costs of regulation which we feel should be considered. Some provisions appear ambiguous, others seem to require unnecessary annual repetition of work. And, the bill places substantial new burdens on a large number of executive departments and agencies.

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The bill establishes as an objective an overall reduction in costs of up to 25 percent by having each executive department and agency reduce the costs of complying with its own rules and regulations by up to that percentage. However, an equal across-the-board reduction is not likely to be the most efficient way to achieve the final goal. A reduction in the compliance costs of some regulations can be effected with no loss in regulatory benefits. However, a reduction in the compliance costs of other regulations could entail a substantial reduction in regulatory benefits that would leave society worse off. Any reduction of regulatory costs should be weighed, where possible, against the associated loss of regulatory benefits on a case by case basis. Such comparisons would indicate regulations that can and should have their compliance costs cut by 25 percent and more, and others that may warrant no reduction in costs at all.

Section 3 of S.3262 requires the President or his designee to develop methods of determining the costs of compliance with Federal rules and regulations. These methods are likely to include asking the regulated organizations to provide estimates of their compliance costs because in some cases there may be no other sources of such information. The burden on the non-Federal sector of providing this information may be considerable. It will at least partially offset the anticipated reduction in compliance costs.

Section 4 of S.3262 requires a report from the head of each department or agency on the costs of compliance with each rule or regulation of that agency. This provision would place a requirement on agencies that they may not be able to fulfill because of measurement problems. For example, there is a problem of allocating joint costs. Members of the non-Federal sector are frequently required to comply with many rules or regulations simultaneously. It is very difficult, if not impossible, in such situations to allocate all compliance costs to individual regulations. Furthermore, not all costs of compliance are readily quantifiable and measureable. Therefore, it will not always be possible to accurately assess a department or agency's improvement.

A fundamental issue that is not addressed in S. 3262 is that the costs of compliance are only part of the costs of regulation. Regulation can cause inefficient resource allocation in the private sector of the economy. An example is the creation of excess capacity in some industries, the costs of which are not compliance costs. Furthermore, dynamic costs such as reductions in the level of research and development and the rate of technological change can also develop.

Definitions of the terms "independent agency" and "executive department" are included in Section 8 of the bill. Although it appears that these definitions are intended to be very inclusive, it is possible that some agency may contend that it is not subject to the bill. Section 8 authorizes the Director of the Office of Management and Budget to determine whether a particular agency is included under the definition of "independent agency." This official may not be the most appropriate person for this task.

Section 3 of S.3262 requires the President or his designee to publish in the Federal Register the criteria used in determining which rules or regulations are within the definition of rule or regulation in this bill and the methods to be used in determining the costs of compliance with those rules or regulations. These criteria and methods are to be published in the Federal Register "in order to solicit public comments thereon, for a period not in excess of 45 days." This provision is presumably intended to allow a reasonable, but not excessive, period during which public comments will be received. We note, however, that while a maximum period for public comment is specified in the bill, there is no mention of a minimum period during which comments will be accepted. We believe it would be desirable to specify a minimum, as well as a maximum period for public comment.

S.3262 requires cost reduction to take place during a five year period. Section 3 of the bill directs the President annually to establish criteria for determining which rules or regulations are included under this bill and to develop methods of determining the costs of compliance. This appears to mandate an unnecessary repetition of work inasmuch as the same criteria and methods established and developed in the first year could most likely be used in subsequent years.

Section 7 of S.3262 requires the Comptroller General to submit to Congress a review of the detailed reports of each department and agency on the costs of compliance with its rules and regulations, its plans to reduce those costs in the upcoming year, and its evaluation of its previous cost-reducing actions. This review would be improved if the Comptroller General were included in Section 3 among the list of people to whom the criteria and methods are to be sent for comments. Beyond this, however, we are very concerned about the implications of requiring GAO to review each report, particularly considering the large volume of such reports which would be submitted. Meeting this requirement would require a significant augmentation of GAO's staff resources. We also note that the time limit for this review process, 30 days, is clearly insufficient for an evaluation meeting the requirements set forth in Subsection 7(b).

In lieu of this approach, we recommend that GAO review the reports on a selective basis, either on its own initiative or at the request of committees having jurisdiction. If this approach is taken, Section 7 could be deleted in its entirety, since GAO already has adequate authority for such work.

We will be happy to provide you with any additional information that you feel would be helpful to you and the Committee.

Sincerely yours,

Comptroller General  
of the United States

cc: Mr. Staats (OCG)  
Mr. Keller (OCG)  
Mr. Havens (PAD)  
Mr. Crowther (PAD)  
Mr. Myers (PAD)  
Mr. Dugan (PAD)  
Mr. Mendelowitz (PAD)  
Mr. Cherlow (PAD)  
Index and Files

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